

**REMARKS**

**I. Status of Claims**

Claims 185-191, 193, 194, 199-201, 204, 205, 208, 210, 215, 218, 219, 221-225, 228, 229, 266, 267, 282, 284, 288-301 are pending. Claims 1-92, 231-234, 243, 244, 249, 252, 254, 255, 260, 261, 264, 265, 268, 270-272, and 276-278 have been withdrawn. Applicants thank the Office for the indication that claims 266 and 267 are allowable. See July 16, 2002, Office Action, at p. 5.

**II. Amendment to the Specification**

Applicants note that the Examiner has objected to Applicants' amendment to the specification submitted on February 12, 2004. While Applicants continue to believe this amendment was properly submitted as it merely corrects an obvious error and is not new matter, as explained in detail on the record in this application, in the interest of advancing prosecution, Applicants withdraw the amendment.

**III. Rejection Under 35 U.S.C. § 102**

On pages 2 and 3 of the Office Action, the Office appears to set forth a rejection of Applicants' claims under 35 U.S.C. § 102; however, there are several inconsistencies within the text, which also refers to 35 U.S.C. § 103(a) and multiple references. On August 8, 2004, Applicants' representative contacted the Examiner regarding these inconsistencies. The Examiner informed Applicants' representative that the rejection was in error and that Applicants should not address the rejection in their reply to the Office Action as it would be withdrawn. So that the record is perfectly clear, Applicants respectfully request that the Office expressly do so in the next paper.

#### IV. Rejection Under 35 U.S.C. § 103

Claims 92-230, 235-242, 245-248, 250, 251, 253, 256-259, 262, 263, 269, 273-275, and 279-287 have been rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 5,783,657 ("Pavlin") and U.S. Patent No. 3,148,125 ("Strianse"). Applicants respectfully traverse this rejection for the reasons of record and those set forth below.

In making a rejection under 35 U.S.C. § 103, the Office has the initial burden to establish a *prima facie* case of obviousness. See M.P.E.P. § 2143. To meet this burden, the Office must point to some objective teaching in the prior art, coupled with the knowledge generally available to one of ordinary skill in the art at the time of the invention, that would have motivated one of ordinary skill to combine reference teachings with a reasonable expectation of success. See M.P.E.P. §§ 2143.01 and 2143.02; *In re Fine*, 5 U.S.P.Q.2d 1596, 1598, 837 F.2d 1071, 1074 (Fed. Cir. 1988). Both the suggestion and the reasonable expectation of success must be found in the prior art references, not in Applicants' disclosure. See *In re Vaeck*, 20 U.S.P.Q.2d 1438, 947 F.2d 488 (Fed. Cir. 1991). Applicants submit that the Office has not met either of these criteria with respect to the proposed modification of Pavlin in view of Strianse and, therefore, has not established a *prima facie* case of obviousness.

The Office asserts that Pavlin discloses "an anhydrous composition comprising a transparent gel composition which comprises a structuring polymer consisting of an ester-terminated polyamide resin combined with a liquid hydrogen," but admits that it does not teach ingredient (ii) of the present invention, which is "at least one pasty fatty substance, wherein said at least one pasty fatty substance comprises at least one liquid

fraction and at least one solid fraction at room temperature." Office Action at p. 4. The Office turns to Strianse to rectify this deficiency and asserts that one skilled in the art would be motivated to modify the composition of Pavlin with a pasty fatty substance in view of Strianse's teaching of "a clear lipstick comprising lanolin alcohols . . . and fatty acid esters such as oleates, mono laureates and linoleates." *Id.* The Office concludes that one would expect to obtain "an anhydrous lipstick composition comprising a structuring polymer and a pasty fatty substance." *Id.* Applicants disagree.

**A. The Office has not demonstrated the requisite suggestion or motivation to combine the references.**

The Office has failed to demonstrate some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify Pavlin and arrive at the present invention. While Strianse does disclose fatty acid esters and lanolin alcohols in a laundry list of optional ingredients, not all fatty acid esters, including several of the compounds listed in Strianse, are pasty fatty substances as defined by the instant claims. The Office previously recognized that not all fatty acid esters are pasty fatty substances and explicitly noted that while Pavlin teaches fatty acid esters, it does not teach the "at least one pasty fatty substance, wherein said at least one pasty fatty substance comprises at least one liquid fraction and at least one solid fraction at room temperature" of Applicants' claims. See Summary of January 14, 2003 Interview. The Office's conclusory statement at page 5 of the present Office Action that the term "pasty" is not distinguishing is clearly inconsistent with this explanation from the Interview Summary.

Even assuming *arguendo* one of the numerous compounds listed in Strianse (see, e.g., col. 2, ln. 70 to col. 3, ln. 4; col. 3, lns. 48-53) is a pasty fatty substance, the

compounds disclosed in Strianse are not generally classified as pasty fatty substances. Without motivation, which the Office has not provided, one of ordinary skill would not look to the list in Strianse to select a compound based on the characteristic of it being a pasty fatty substance. The Office has not established any independent motivation for one of ordinary skill in the art to pick and choose one specific pasty fatty substance out of a broad general list encompassing all fatty acid esters and fatty alcohols, let alone motivation to combine that pasty fatty substance with the composition of Pavlin. In fact, the references reveal that no motivation existed at the time the invention was made to make the Office's proposed modification.

The Office has done nothing more than point to disclosure in the individual references of the individual components of the present claims. Even though the individual components of the presently claimed invention may be found separately in the references of record, these separate disclosures do not defeat the patentability of the composition as a whole. Merely identifying each of the claimed elements in the prior art is not sufficient to establish a *prima facie* case of obviousness. As the Office is aware, the Federal Circuit has held that "[m]ost if not all inventions arise from a combination of old elements . . . . However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention." *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1316, 217 F.3d 1365, 1370 (Fed. Cir. 2000) (citations omitted). It is not sufficient to merely "find every element of a claimed invention in the prior art" and for the Office to "use the claimed invention itself as a blue print for piecing together elements." *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1457, 149 F.3d 1350, 1357 (Fed. Cir. 1998) (citations and quotations omitted). Only in view of the instant specification would

one find the requisite motivation to combine the references in such a manner as to arrive at the presently claimed invention. However, such hindsight analysis is improper.

There is no specific suggestion of the desirability of the combination here, as discussed above. Accordingly, Pavlin and Strianse could not have provided any motivation for one of ordinary skill in the art to reach the presently claimed invention, and the rejection is improper for this reason alone.

**B. The Office has not demonstrated the requisite expectation of success from the combination of the references.**

As discussed above, in the present case, the references at best individually disclose the elements of the presently claimed invention. Accordingly, only in hindsight could it have been obvious to one with the cited references before her to have combined their teachings in the claimed manner with any reasonable expectation of success. The Office, however, may not pick and choose among isolated disclosures in drawing a conclusion that one of skill in the art at the time the invention was made would have had a reasonable expectation of success after seeing the blueprint the claimed invention provides. Such picking and choosing amounts to improper hindsight reconstruction and is prohibited. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600, 837 F.2d 1071, 1075 (Fed. Cir. 1988).

As discussed above, the Office does not provide any specific basis on which one of ordinary skill in the art would have expected the particular fatty acid esters disclosed in Strianse that may be pasty fatty substances to be successfully combined with the polyamide containing compositions of Pavlin. The Office merely asserts, without support, that “[t]he expected result of the combination would be an anhydrous lipstick composition comprising a structuring polymer and a pasty fatty substance.” Office

Action, at p. 4. The Office does not even attempt to explain why one might expect success when making the proposed combination. Such a conclusory assertion does not provide the requisite reasonable expectation of success, and as such, the rejection is improper for this additional reason.

Accordingly, for at least the foregoing reasons and those set forth by Applicants previously, Applicants maintain that the Office has not set forth any evidence of record demonstrating that one of ordinary skill in the art would have had a reasonable expectation of success in the proposed combination of Pavlin and Strianse.

In light of the foregoing, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness, and thus, request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

**V. U.S. Patent No. 6,497,861 to Wang et al.**

As referenced in the Information Disclosure Statement filed on February 5, 2003, Applicants are aware of U.S. Patent No. 6,497,861 to Wang et al. ("Wang"), filed June 21, 2001. However, Applicants do not believe that this patent is prior art with respect to the present application. In this regard, Applicants point out that the instant application was filed on December 28, 2000, nearly six months prior to the filing date of Wang. Nor do Applicants believe that the claims presented herein define the same patentable invention as any of those of Wang. Hence, Applicants do not believe that there is any interfering subject matter between the present claims and those of Wang.

**VI. Commonly Assigned Applications**

Applicants direct the Office's attention to Table 1, below, listing 37 copending applications and patents, including the present application. Also listed in Table 1, below, is the publication information (U.S. Published Applications and/or U.S. Patents), if any, that corresponds to these copending applications and their dates of publication. Applicants have also identified the related copending applications and patents in Table 1 that were filed prior to December 28, 2000. Applicants assert that all of the applications listed in Table 1 that were filed prior to the instant application's priority date were commonly owned by the Assignee at the time the instant invention was made, which instant invention was also subject to assignment to the Assignee. Moreover, Applicants have provided for the Office's convenience the available assignment information in Table 1 or confirmed the obligation of assignment with the assignee, demonstrating that none of these applications, patents, or publications is available as § 102(e)/§ 103 prior art against the pending claims. See 35 U.S.C. § 103(c).

**VII. Patentability over Copending Applications and Patents Issued Therefrom Cited in Information Disclosure Statements**

For the Office's convenience, Applicants identify in Table 1 below the 37 related applications or patents, including the instant application. Table 1 includes the filing date, assignment, and inventor information for these applications and patents. This information should assist the Office in assessing any possible issues under statutory or obviousness-type double patenting. Applicants do not believe that any issue with respect to statutory double patenting under 35 U.S.C. § 101 is present with respect to the pending claims of the instant application and the claims of any other application or

patent listed in Table 1. To be sure, however, Applicants provide herewith Exhibit 1, which contains all of the claims of the 37 applications and patents, including the instant claims. As the Office can see from Exhibit 1, no other application contains claims which are identical to the instant claims.

**Table 1.**

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371(c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication Date
05725.0594-00000	09/733,899	December 12, 2000	Mohamed KANJI, Carl ORR, and Carlos O. PINZON	COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE FILM-FORMING SILICONE RESIN AND METHODS OF USING	Reel 011723, Frame 0503, on April 20, 2001	U.S. Published Application No. US 2002/0114773 A1  Dated: August 22, 2002
05725.0595-00000	09/733,900	December 12, 2000	Carlos O. PINZON and Paul THAU	COSMETIC COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE CATIONIC SURFACTANTS AND METHODS OF USING SAME	Reel 011639, Frame 0897, on March 23, 2001	U.S. Published Application No. US 2002/0122781 A1 (Republished US 2003/0082126 A9 on May 1, 2003)  Dated: September 5, 2002
05725.0656-00000	09/618,066	July 17, 2000	Véronique FERRARI and Pascal SIMON	COMPOSITIONS IN RIGID FORM STRUCTURED WITH A POLYMER	Reel 011057, Frame 0676, on September 11, 2000	N/A: Will not publish
05725.0656-	09/685,577	October 11, 2000	Véronique FERRARI and Pascal	COMPOSITIONS IN RIGID FORM STRUCTURED	Reel 011455, Frame 0203, on January	N/A: Will not publish

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
01000			SIMON	WITH A POLYMER	22, 2001	
05725.0659-00000	09/618,032, issued on June 11, 2002, as U.S. Patent No. 6,402,408	July 17, 2000	Véronique FERRARI	COMPOSITION CONTAINING A LIQUID FATTY PHASE GELLED WITH A POLYAMIDE CONTAINING ESTER END GROUPS	Reel 011057, Frame 0007, on September 12, 2000	U.S. Patent No. 6,402,408 Dated: June 11, 2002
05725.0659-01000	09/685,578	October 11, 2000	Véronique FERRARI	COMPOSITION CONTAINING A LIQUID FATTY PHASE GELLED WITH A POLYAMIDE CONTAINING ESTER END GROUPS	Reel 011549, Frame 0914, on February 20, 2001	N/A: Will not publish
05725.0795-01000	10/182,830	August 2, 2002  371 (c) Date: January 21, 2003	Roberto CAVA-ZZUTI, Véronique FERRARI, Brian MATTOX, Carlos O. PINZON, and Paul THAU	USE OF POLYAMIDE POLYMER IN A MASCARA COMPOSITION COMPRISING AT LEAST ONE SOLID SUBSTANCE HAVING A MELTING POINT OF 45°C OR GREATER	Reel 014040, Frame 0345, on May 7, 2003	U.S. Published Application No. 2003/0147837 A1  Dated: August 7, 2003
05725.0795-02000	10/787,441	February 27, 2004	Roberto CAVA-ZZUTI, Véronique FERRARI, Brian MATTOX, Carlos O. PINZON, and Paul THAU	METHOD OF MAKING A MASCARA COMPOSITION- COMPRISING POLYAMIDE POLYMER AND AT LEAST ONE SOLID SUBSTANCE HAVING A MELTING POINT OF 45°C OR	Reel 014040, Frame 0345, on May 7, 2003	US Published Application No. 2004-0166133 A1  Dated August 26, 2004

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
				GREATER		
05725.0806-00000	09/733,896	December 12, 2000	Carlos O. PINZON and Paul THAU	COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE POLYMERS AND METHODS OF USING SAME	Reel 011765, Frame 0183, on April 26, 2001	U.S. Published Application No. US 2002/012003 6 A1 (Republished US 2003/012542 7 A9 on July 3, 2003)  Dated: August 29, 2002
05725.0808-00000	09/733,898	December 12, 2000	Carlos O. PINZON, Paul THAU, and Isabelle BARA	COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE ESTERS AND METHODS OF USING SAME	Reel 011654, Frame 0869, on April 2, 2001	U.S. Published Application No. US 2002/010731 4 A1  Dated: August 8, 2002
05725.0808-02000	10/918,571	August 16, 2004	Carlos O. PINZON, Paul THAU, and Isabelle BARA	COMPOSITIONS CONTAINING HETEROPOLYMERS AND OIL-SOLUBLE ESTERS AND METHODS OF USING SAME	Reel 011654, Frame 0869, on April 2, 2001	Not yet published
05725.0809-00000	09/733,897	December 12, 2000	Carlos O. PINZON and Paul THAU	COMPOSITIONS CONTAINING HETEROPOLYMERS AND METHODS OF USING SAME	Reel 011646, Frame 0966, on April 4, 2001	U.S. Published Application No. US 2002/011133 0 A1  Dated: August 15, 2002

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
05725.0816-01000	10/203,018	August 5, 2002  371 (c) Date: March 24, 2003	Véronique FERRARI, Richard KOLOD-ZIEJ, Carlos O. PINZON, and Paul THAU	USE OF POLYAMIDE POLYMER IN A MASCARA COMPOSITION COMPRISING AT LEAST ONE INERT FILLER	Reel 014055, Frame 0428, on March 24, 2003	U.S. Published Application No. US 2003/016184 8 A1 (Republished US 2004/013164 7 on July 8, 2004)  Dated: August 28, 2003
05725.0816-02000	10/787,440	February 27, 2004	Véronique FERRARI, Richard KOLOD-ZIEJ, Carlos O. PINZON, and Paul THAU	METHOD OF MAKING A MASCARA COMPOSITION COMPRISING A POLYAMIDE POLYMER AND AT LEAST ONE INERT FILLER	Reel 014055, Frame 0428, on March 24, 2003	U.S. Published Application No. US 2004-0166076 A1  Dated August 26, 2004
05725.0817-01000	10/203,254	August 7, 2002  371 (c) Date: December 20, 2002	Véronique FERRARI, Carlos O. PINZON, and Paul THAU	COSMETIC COMPOSITIONS CONTAINING AT LEAST ONE HETEROPOLY-MER AND AT LEAST ONE GELLING AGENT AND METHODS OF USING THE SAME	Reel 013607, Frame 0258, on December 20, 2002	U.S. Published Application No. US 2003/018578 0 A1  Dated: October 2, 2003
05725.0819-01000	10/129,377	May 3, 2002  371 (c) Date: October 16, 2002	Véronique FERRARI	COMPOSITION STRUCTURED WITH A POLYMER CONTAINING A HETEROATOM AND AN ORGANOGEELL-ATOR	Filed October 16, 2002. Not yet recorded.	Not yet published

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
05725.0832-00000	09/749,036	December 28, 2000	Véronique FERRARI and Véronique JACQUES	COMPOSITION COMPRISING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE PASTY FATTY SUBSTANCE AND METHODS FOR USE	Reel 011723, Frame 0518, on April 20, 2001	U.S. Published Application No. US 2001/0031280 A1  Dated: October 18, 2001
05725.0895-00000	09/971,028 issued on April 6, 2004 as U.S. Patent No. 6,716,420	October 5, 2001	Mohamed KANJI	METHODS OF USE AND OF MAKING A MASCARA COMPRISING AT LEAST ONE COLORING AGENT AND AT LEAST ONE HETEROPOLYMER	Reel 012411, Frame 0820, on December 28, 2001	U.S. Patent No. 6,716,420  Dated: April 6, 2004
05725.0895-01000	10/413,217	April 15, 2003	Mohamed KANJI	METHODS OF USE AND OF MAKING A MASCARA COMPRISING AT LEAST ONE COLORING AGENT AND AT LEAST ONE POLYAMIDE POLYMER CHOSEN FROM ETHYLENEDIAMINE/STEARYL DIMER TALLATE COPOLYMER	Reel 012411, Frame 0820, on December 28, 2001	U.S. Published Application No. US 2003/0198613 A1 (Republished US 2004/0141932 on July 22, 2004)  Dated: October 23, 2003
05725.0895-02000	10/699,780	November 4, 2003	Sue FENG and Mohamed KANJI	METHODS OF DISPERSING AT LEAST ONE COLORING AGENT USING AT LEAST ONE HETEROPOLYMER	Reel 012411, Frame 0820, on December 28, 2001	U.S. Published Application No. US 2004/0091510 A1  Dated: May 13, 2004

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
05725.0896-00000	10/198,931	July 22, 2002	Mohamed KANJI	COMPOSITIONS COMPRISING AT LEAST ONE HETEROPOLY-MER AND FIBERS, AND METHODS OF USING THE SAME	Reel 013410, Frame 0044, on October 21, 2002	U.S. Published Application No. US 2004/0013625 A1  Dated: January 22, 2004
05725.0920-00000	09/899,909, issued on August 13, 2002 as U.S. Patent No. 6,432,391	July 9, 2001	Isabelle BARA	TRANSPARENT SCENTED SOLID COSMETIC COMPOSITION	Reel 012278, Frame 0077, on October 23, 2001	U.S. Patent No. 6,432,391  Dated: August 13, 2002
05725.0932-00000	09/937,314	September 24, 2001  371 (c) Date: December 6, 2001	Véronique FERRARI	A TRANSFER-FREE MASCARA COMPOSITION COMPRISING AT LEAST ONE VOLATILE SOLVENT AND AT LEAST ONE POLYMER	Reel 012476, Frame 0507, on January 17, 2002	U.S. Published Application No. US 2004/0086478 A1  Dated: May 6, 2004
05725.1003-00000	10/012,029	December 11, 2001	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A POLYMER BLEND	Reel 013142, Frame 0645, on August 1, 2002	U.S. Published Application No. US 2003/0012764 A1  Dated: January 16, 2003
05725.1004-00000	10/012,051	December 11, 2001	Nathalie COLLIN	USE OF AT LEAST ONE POLYAMIDE POLYMER IN A MASCARA FOR RAPIDLY INCREASING THE AMOUNT	Reel 012847, Frame 0285, on April 30, 2002	U.S. Published Application No. US 2002/0189030 A1  Dated:

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
				OF MAKE-UP DEPOSITED ON EYELASHES		December 19, 2002
05725.1005-00000	10/012,052	December 11, 2001	Nathalie COLLIN	COSMETIC COMPOSITION CONTAINING A WAX AND A POLYMER	Reel 012847, Frame 0264, on April 30, 2002	U.S. Published Application No. US 2002/0168335 A1  Dated: November 14, 2002
05725.1018-00000	10/046,568	January 16, 2002	Xavier BLIN, Véronique FERRARI, and Frédéric AUGUSTE	NAIL POLISH COMPOSITION COMPRISING A POLYMER	Reel 013109, Frame 0731, on July 18, 2002	U.S. Published Application No. US 2002/0192168 A1  Dated: December 19, 2002
05725.1020-00000	10/047,987	January 17, 2002	Véronique FERRARI	COSMETIC COMPOSITION COMPRISING A POLYMER AND A FLUORO OIL	Reel 012910, Frame 0028, on May 17, 2002	U.S. Published Application No. US 2002/0172696 A1  Dated: November 21, 2002
05725.1187-00000	10/312,083	December 23, 2002  371 (c) Date: March 26, 2003	Patricia LEMANN	COSMETIC COMPOSITION COMPRISING AN EMULSION CONTAINING A LIQUID FATTY PHASE STRUCTURED WITH A POLYMER, AND AN ALKYLENE-OXIDE-CONTAINING	Reel 014039, Frame 0976, on March 26, 2003	U.S. Published Application No. US 2003/0161807 A1  Dated: August 28, 2003

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
				EMULSION STABILIZER		
05725.1198-00000	10/450,108	June 11, 2003  371 (c) Date: June 11, 2003	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A POLYMER AND FIBERS	Not yet filed/recorded	U.S. Published Application No. US 2004/002863 6 A1  Dated: February 12, 2004
05725.1228-00000	10/466,166	July 14, 2003  371 (c) Date: January 20, 2004	Nathalie COLLIN	COSMETIC COMPOSITION COMPRISING A MIXTURE OF POLYMERS	Filed January 20, 2004. Not yet recorded.	U.S. Published Application No. US 2004/012640 1 A1  Dated: July 1, 2004
05725.1336-00000	10/459,636	June 12, 2003	Shao Xiang LU and Mohamed KANJI	COSMETIC EMULSIONS CONTAINING AT LEAST ONE HETERO POLYMER AND A SUNSCREEN AND METHODS OF USING SAME	Filed October 3, 2003; not yet recorded	U.S. Published Application No. US 2004/004298 0 A1  Dated: March 4, 2004
05725.1337-00000	10/618,315	July 11, 2003	Shao Xiang LU, Terry VAN LIEW, and Nathalie GEFFROY-HYLAND	COSMETIC COMPOSITIONS COMPRISING A STRUCTURING AGENT, SILICONE POWDER AND SWELLING AGENT	Filed August 12, 2003 and January 30, 2004; not yet recorded	Not yet published
05725.1338-01000	10/746,612	December 22, 2003	Shao Xiang LU, Terry VAN LIEW, Nathalie GEFFROY-	COSMETIC COMPOSITIONS COMPRISING A STRUCTURING AGENT,	Not yet filed/recorded	Not yet published

Attorney Docket No.	U.S. Patent Application No.	U.S. Filing Date/ 371 (c) Date	Inventors	Title	Assignment Recorded (Reel, Frame, Date)	Publication, Date
			HYLAND, and Mohamed KANJI	SILICONE POWDER AND SWELLING AGENT		
05725.1338-02000	10/747,412	December 22, 2003	Shao Xiang LU and Mohamed KANJI	COSMETIC EMULSIONS CONTAINING AT LEAST ONE HETERO POLYMER AND AT LEAST ONE SUNSCREEN AND METHODS FOR USING THE SAME	Not yet filed/recorded	Not yet published
06028.0018-00000	10/203,375	August 9, 2002  371 (c) Date: August 9, 2002	Nathalie JAGER-LEZER and Jean-Christophe SIMON	COLOURED TRANSPARENT OR TRANSLUCENT COSMETIC COMPOSITION	Reel 013318, Frame 0962, on August 9, 2002	U.S. Published Application No. US 2003/0026772 A1  Dated: February 6, 2003
06028.0019-00000	10/203,374	August 9, 2002  371 (c) Date: August 9, 2002	Jean-Christophe SIMON and Nathalie JAGER-LEZER	METHOD FOR MAKING A COLOURED MAKE-UP COSMETIC COMPOSITION WITH CONTROLLED TRANSMITTANCE	Reel 013321, Frame 0001, on August 9, 2002	U.S. Published Application No. US 2003/0044367 A1  Dated: March 6, 2003

## IX. Information Disclosure Statements

Applicants note that the Form PTO 1449 submitted by Applicants on October 24, 2002, returned with the August 13, 2003 Office Action, was not complete. Furthermore, Applicants have not received an initialed copy of the Form PTO 1449 submitted by

Applicants on July 25, 2003. Applicants request that the Office provide Applicants with complete copies of these initialed Forms PTO 1449 with the next paper.

**X. Conclusion**

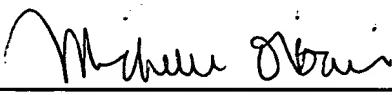
In view of the foregoing, Applicants respectfully request the reconsideration of the pending claims, reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: November 4, 2004

By: 

Michelle E. O'Brien  
Reg. No. 46,203

**Attachments:** **Exhibit 1 - Pending Claims in Copending Applications**